

## AGING, DEPARTMENT ON[17]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of 2010 Iowa Acts, Senate File 2263, the Department on Aging hereby gives Notice of Intended Action to amend Chapter 8, “Long-Term Care Resident’s Advocate/Ombudsman,” Iowa Administrative Code.

The proposed amendments provide procedures for volunteer access to facility records and also clarify that a civil penalty of not more than \$1,500 may be imposed for interference with the duties of the state or a local long-term care resident’s advocate/ombudsman.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 7, 2010. Such written suggestions or comments should be directed to the Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319; E-mailed to [lisa.burk@iowa.gov](mailto:lisa.burk@iowa.gov); or faxed to (515)725-3300.

These amendments are intended to implement 2010 Iowa Acts, Senate File 2263.

The following amendments are proposed.

ITEM 1. Amend rule 17—8.3(231) as follows:

#### **17—8.3(231) Interference.**

**8.3(1)** A local long-term care resident’s advocate/ombudsman or trained volunteer long-term care ombudsman certified under rule 17—8.7(231) who is denied access to a resident or tenant in a long-term care facility, assisted living program, or elder group home, or to medical and personal records while in the course of conducting official duties or whose work is interfered with during the course of an investigation shall report such denial or interference to the office of the state long-term care resident’s advocate who will report the interference to the director of the department on aging.

**8.3(2)** Access to facility records. Copies of a resident’s medical or personal records maintained by the facility, or other records of a long-term care facility, assisted living program, or elder group home, may be made with the permission of the resident, the resident’s responsible party, or the legal representative of the resident. All medical and personal records shall be made available to a volunteer long-term care ombudsman for review if:

- a. The volunteer long-term care ombudsman has written permission from the resident, the legal representative of the resident, or the responsible party; and
- b. Access to the records is necessary to investigate a complaint; and
- c. The volunteer long-term care ombudsman obtains approval of the resident’s advocate/ombudsman or designee.

ITEM 2. Amend rule 17—8.4(231) as follows:

**17—8.4(231) Monetary civil penalties—basis.** The director, in consultation with the state long-term care resident’s advocate/ombudsman, may impose a monetary civil penalty of not more than \$1,500 on an officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the duties of the state or a local long-term care resident’s advocate/ombudsman. If the director imposes a penalty for a violation under this rule, no other state agency shall impose a penalty for the same interference violation.